

COVID-19 Layoff Aversion Fund | March 23, 2020

- TO:** Small businesses throughout the State of Maryland; Maryland Department of Labor (MD Labor) - Division of Workforce Development and Adult Learning (DWDAL) staff; Local Workforce Development Areas
- FROM:** DWDAL, MD Labor
- SUBJECT:** *COVID-19 Layoff Aversion Fund*
- PURPOSE:** To provide policy guidance on the *COVID-19 Layoff Aversion Fund*
- ACTION:** Local Workforce Development Area directors, American Job Center labor exchange administrators, central office managers, and Business Services staff will ensure all employees are aware of and receive copies of this policy. DWDAL policies are available [on the Maryland Department of Labor website](#).
- EXPIRATION:** 30 calendar days following the discontinuation of the State of Emergency in Maryland related to COVID-19, as ordered by the Governor.

QUESTIONS:

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GENERAL INFORMATION

COVID-19 and the Maryland Response

On March 5, 2020, Governor Larry Hogan declared a State of Emergency in Maryland as a result of the public health threat associated with the novel coronavirus, or COVID-19. Over subsequent days, the Governor proclaimed various Executive Orders¹ in order to encourage “social distancing” and protect citizens from further spread of the disease.

COVID-19 Layoff Aversion Fund

In order to support small businesses facing financial impacts from the novel coronavirus, the Maryland Department of Labor (MD Labor) established the *COVID-19 Layoff Aversion Fund* with **\$7 million** of State and federal Rapid Response resources.²

Rapid Response³ is a flexible activity designed to respond to the needs of businesses and affected workers. It includes the delivery of layoff aversion strategies intended to prevent or minimize the duration of unemployment. The *COVID-19 Layoff Aversion Fund* will direct grants to small businesses experiencing economic stresses in order to mitigate potential layoffs or facility closures due to COVID-19 and promote “social distancing.” Eligible businesses may apply for funding up to \$50,000.

MD Labor will accept applications to the *COVID-19 Layoff Aversion Fund* starting immediately and continuing through 30 calendar days following the discontinuation of the State of Emergency related to the novel coronavirus, as issued by Governor Hogan.

ELIGIBILITY

Eligible applicants include Maryland business that:

- Have 500 employees⁴ or fewer based within the State;
- Are up-to-date on Unemployment Insurance taxes and in good standing with the Comptroller of Maryland and MD Labor;⁵ and
- Can demonstrate a need for layoff aversion support due to the impacts of COVID-19.

In addition to small business, applicants may include employer consortiums comprised of businesses who collectively meet the above qualifications, such as:

- Non-profit or community-based organizations;
- Industry Associations;
- Two or four-year institution of higher education;
- Local Workforce Development Areas;
- Labor Unions;
- Local or Regional Economic Development entities; and
- Local Governments.

¹ Executive Orders related to COVID-19 are available here: <https://governor.maryland.gov/category/executive-orders/>.

² MD Labor will pursue other funding to support this initiative beyond the Rapid Response resources.

³ MD Labor Policy Issuances, including the policy on Rapid Response is available here: <https://www.dllr.state.md.us/employment/mpi/>

⁴ Employees cannot be independent contractors.

⁵ If an approved applicant owes taxes to the State of Maryland, payment will first be automatically applied towards that expense by the Comptroller of Maryland.

USE OF FUNDS

Allowable Costs

Participating organizations must utilize funds in order to mitigate layoffs and adhere to “social distancing” provisions established by state and federal public health entities. Requests must be reasonable, necessary, and directly related to the purpose of the *COVID-19 Layoff Aversion Fund*. All applications will be reviewed by MD Labor (additional details in a subsequent section).

Examples of permissible activities include, but are not limited to:

- Purchasing remote access equipment to allow employees to work from home versus being laid off (computers, printers, telephones, headsets, etc.);
- Purchasing software programs or applications required for working remotely;
- Purchasing cleaning/sanitization supplies and/or services that will allow a small business to maintain an on-site workforce as a result of exposure reduction through frequent deep cleaning;
- Paying for additional liability insurance for restaurants that convert to delivery under the State of Emergency;
- Supporting businesses that take advantage of the Unemployment Insurance Work Sharing Program (<https://www.dllr.state.md.us/employment/worksharing/>) by supplementing the employee’s income and benefits;⁶ and/or,
- Other creative approaches and strategies to reduce or eliminate the need for layoffs, subject to review and approval by the MD Labor.

Prohibited Use of Funds

Resources from the *COVID-19 Layoff Aversion Fund* may not be used for the following:

- Hazard pay;
- Employee wages/benefits other than those utilizing the Workshare Unemployment Insurance Program; and
- Support services such as childcare, transportation costs, lodging expenses, or meals.

Funding Cap

The threshold for *COVID-19 Layoff Aversion Fund* grants is \$50,000 per eligible applicant.

MD Labor may consider proposals that exceed this cap if extenuating circumstances warrant. Consideration will require strong documentation to be submitted by the applicant, evidencing substantial potential for layoffs related to COVID-19.

APPLYING TO THE COVID-19 LAYOFF AVERSION FUND

Application Submission

To apply to the *COVID-19 Layoff Aversion Fund*, a business must first complete the application provided on the Maryland Business Express webpage at: <https://businessexpress.maryland.gov/coronavirus>.

At a minimum, a completed application must provide:

⁶ If utilizing the Unemployment Insurance Worksharing Program, employers may use the COVID-19 Layoff Aversion Fund to supplement Unemployment Insurance payments. In this case, the Fund would cover employee wages up to \$50,000 if the applicant demonstrates that they are participating in the Workshare Program.

- The amount of funds requested and a brief itemized description of all costs;
- The number of employees affected;
- A brief profile of the business including Employer ID#, address, and contact information;
- A brief narrative describing the layoff aversion plan and need for funds;
- A copy of the organization's W-9 form; and,
- A commitment to keep employees on staff through 45 calendar days from the date of the grant award.

Eligible businesses should submit completed applications electronically to:

LaborCOVID19.layoffaversion@maryland.gov for consideration by the LaborReview Team. Applications will be accepted and reviewed on a rolling, first-come, first-served basis until funds are exhausted.

Application Review

The Labor Review Team must review submitted applications within two business days of receipt.

The Review Team, comprised of staff from the Labor Division of Workforce Development and Adult Learning (DWDAL), must ensure that approved applications adhere to the purpose of the *COVID-19 Layoff Aversion Fund* and do not seek retroactive funding.

Application Approval/Denial

MD Labor must inform applicants via email of whether *COVID-19 Layoff Aversion Fund* applications have been approved or denied within two business days of application receipt.

If approved, the MD Labor Office of Workforce Development will provide the business with a *COVID-19 Layoff Aversion Fund* Award Notification to be executed by the business. Approved businesses must submit completed grant agreements to MD Labor for review within five business days of notification by email at LaborCOVID19.layoffaversion@maryland.gov⁷. Once signed, the grant award is considered executed. After a grant agreement has been formally executed, MD Labor shall directly pay vendors/business on behalf of approved organizations as an advanced payment or provide reimbursement.

If denied, within seven calendar days from the notice of denial, the applicant may appeal the decision. The appeal must be emailed to LaborCOVID19.layoffaversion@maryland.gov and: (1) state the grounds for the appeal; and, (2) state the reasons why the appellant should be approved. The MD Labor DWDAL Assistant Secretary will consider all appeals and provide written response to the applicant within seven calendar days of appeal receipt.

REPORTING, MONITORING, & RECORD RETENTION

Administrative, Fiscal, and Programmatic Reporting

The *COVID-19 Layoff Aversion Fund* was created with federal and state Rapid Response resources. As a result, participating businesses and organizations will be required to submit brief reports and expense receipts. MD Labor will notify successful applicants of these requirements and intends to streamline and simplify this process during Maryland's State of Emergency in order to further support burdened businesses.

Monitoring

⁷ Extensions *may* be permitted under extenuating circumstances.

As the *COVID-19 Layoff Aversion Fund* is, in part, federally funded, the State acknowledges that the U.S. Department of Labor may conduct fiscal and/or programmatic monitoring of this initiative. Additionally, entities receiving an award may be subject to federal monitoring.

Record Retention

In accordance with the Code of Federal Regulations, Maryland requires participating businesses and organizations to retain *COVID-19 Layoff Aversion Fund* records for at least three years following the final expenditure, or until any related litigation is complete.

FAIR PRACTICES AND ACCESSIBILITY

It is the policy of MD Labor that all persons have equal opportunity and access to services and facilities without regard to race, religion, color, sex, age, national origin or ancestry, marital status, parental status, sexual orientation, disability or veteran status.

REFERENCES

Law

- [Declaration of State of Emergency and Existence of Catastrophic Health Emergency – COVID-19](#), dated March 5, 2020;
- [Executive Orders related to COVID-19](#), Governor Larry Hogan, State of Maryland;
- Maryland Code, Labor and Employment, Title 11, [Maryland Economic Stabilization Act](#); and
- [Workforce Innovation and Opportunity Act \(WIOA\)](#), 29 U.S.C. § 3101 et. seq (2015).

Regulations

- 2 CFR 200.332, [Subrecipient Monitoring and Management](#);
- 20 C.F.R. 639, [Worker Adjustment and Retraining Notification](#);
- 29 CFR 95.53, [Retention and access requirements for records](#);
- Code of Maryland Regulations (COMAR), Title 9- Department of Labor, Licensing and Regulation, Subtitle 33- Job Service, Chapter 2 – “[Economic Stabilization](#)”;
- COMAR, Title 9- Department of Labor, Licensing and Regulation, Subtitle 32- Unemployment Insurance, Chapter 1- Obligations of Employers, Part .06- “[Claims during Temporary Mass Layoffs](#)”.

U.S. Department of Labor Guidance

- Training and Employment Guidance Letter (TEGL) 26-14, “[Workforce Innovation and Opportunity Act Transition Authority for Flexible Use of State Rapid Response Funds](#)”, dated April 14, 2015; and
- Training and Employment Notice (TEN) 9-12, “[Layoff Aversion in Rapid Response Systems](#)”, dated August 31, 2012;